



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4697**

Introduced 2/3/2012, by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

225 ILCS 720/2.11

from Ch. 96 1/2, par. 7902.11

Amends the Surface Coal Mining Land Conservation and Reclamation Act. Provides that the Department of Natural Resources shall issue its written decision modifying, granting, or denying (now, granting or denying) a permit in whole or in part and state the reasons for the Department's decision. Provides that no party to a formal adjudicatory hearing may seek judicial review of the Department's final decision on the permit application until after the issuance of the hearing officer's written decision modifying, granting, or denying (now, granting or denying) the permit.

LRB097 19396 CEL 64649 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Surface Coal Mining Land Conservation and  
5 Reclamation Act is amended by changing Section 2.11 as follows:

6 (225 ILCS 720/2.11) (from Ch. 96 1/2, par. 7902.11)

7 Sec. 2.11. Procedures for Approval.

8 (a) If a hearing has been held under Section 2.04, the  
9 Department shall within 60 days after the last such hearing  
10 make its decision on the application and shall promptly furnish  
11 the applicant, local government officials in the area of the  
12 affected land, and persons who are parties to the  
13 administrative proceedings, with the written findings of the  
14 Department and stating the specific reasons for its decision.

15 (b) If no hearing has been held under Section 2.04, the  
16 Department shall make its decision on the application within  
17 120 days after receipt by the Department of a complete  
18 application and shall promptly notify the applicant, local  
19 government officials in the area of the affected land, and  
20 persons who have submitted written comments on the application  
21 of the Department's decision with the written findings of the  
22 Department and stating the specific reasons for its decision.

23 (c) Within 30 days after the applicant is notified of the

1 final decision of the Department on the permit application, the  
2 applicant or any person with an interest that is or may be  
3 adversely affected may request a hearing on the reasons for the  
4 final determination. The Department shall hold a hearing within  
5 30 days after this request and notify all interested parties at  
6 the time that the applicant is notified. The notice shall be  
7 published in a newspaper of general circulation published in  
8 each county in which any part of the area of the affected land  
9 is located. The notice shall appear no more than 14 days nor  
10 less than 7 days prior to the date of the hearing. The notice  
11 shall be no less than one eighth page in size, and the smallest  
12 type used shall be twelve point and shall be enclosed in a  
13 black border no less than 1/4 inch wide. The notice shall not  
14 be placed in that portion of the newspaper where legal notices  
15 and classified advertisements appear. The hearing shall be of  
16 record and adjudicatory in nature. No person who presided at a  
17 hearing under Section 2.04 shall either preside at the hearing  
18 or participate in the decision on the hearing. Within 30 days  
19 after the hearing, the Department shall issue, and furnish the  
20 applicant, local government officials in the area of the  
21 affected land, and all persons who participated in the hearing,  
22 its written decision modifying, granting, or denying the permit  
23 in whole or in part and stating the reasons for its decision.  
24 No party to a formal adjudicatory hearing under this subsection  
25 may seek judicial review of the Department's final decision on  
26 the permit application until after the issuance of the hearing

1 officer's written decision modifying, granting, or denying the  
2 permit.

3 (d) If the application is approved under either subsection  
4 (a) or (b) of this Section, the permit shall be issued.

5 (e) If a hearing is requested under subsection (c) of this  
6 Section, the Department may, under such conditions as it may  
7 prescribe, grant such temporary relief as it deems appropriate  
8 pending final determination of the proceedings if all parties  
9 to the proceedings have been notified and given an opportunity  
10 to be heard on a request for temporary relief, the person  
11 requesting such relief shows that there is a substantial  
12 likelihood that he will prevail on the merits of the final  
13 determination of the proceeding, and such relief will not  
14 adversely affect the public health or safety or cause  
15 significant imminent environmental harm to land, air, or water  
16 resources.

17 (f) If final action on an application does not occur within  
18 the times prescribed in subsections (a) or (b) of this Section,  
19 whichever applies, the applicant may deem the application  
20 denied, and such denial shall constitute final action. The  
21 applicant may waive these time limits.

22 (g) For the purpose of hearings under this Section, the  
23 Department may administer oaths, subpoena witnesses or written  
24 or printed materials, compel attendance of the witnesses or  
25 production of the materials, and take evidence including but  
26 not limited to site inspections of the land to be affected and

1 other mining operations carried on by the applicant in the  
2 general vicinity of the proposed operation. A verbatim record  
3 of each hearing under this Section shall be made, and a  
4 transcript shall be made available on the motion of any party  
5 or by order of the Department.

6 (Source: P.A. 88-63; 88-185; 88-670, eff. 12-2-94.)